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Federal Communications Commission
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BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

In the Matter of)	
)	
Access Charge Reform)	CC Docket No. 96-262
)	
Price Cap Performance Review)	CC Docket No. 94-1
for Local Exchange Carriers)	
)	
Transport Rate Structure)	CC Docket No. 91-213
and Pricing)	
)	
Usage of the Public Switched)	CC Docket No. 96-263
Network by Information Service))	
and Internet Access Providers))	

COMMENTS OF TIME WARNER COMMUNICATIONS HOLDINGS, INC.

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January 29, 1997

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SUMMARY

This access charge proceeding comes at a critical time for Time Warner Communications Holdings, Inc. The company is now or plans in the near future to offer exchange and exchange access services to business customers in the eighteen markets in which it has upgraded its cable plant to provide telephone service. The FCC's access charge rules will play a very significant role in determining whether such facilities-based entry can actually succeed.

Although optimally efficient pricing rules would most assist low-cost new entrants, it is probably not possible to fix all of the defects of the current regime at this time. The Commission should therefore go as far as possible to ensure that costs are recovered by ILECs in the manner in they are incurred and that market-based solutions replace regulations where possible.

Thus, the rate structure reforms should be accomplished as follows. First, the non traffic-sensitive costs of the local loop should be recovered through flat charges either (ideally) from end users or alternatively from long distance carriers. In no case should the universal service fund be significantly expanded to cover these costs. Second, non traffic-sensitive switching costs should be recovered in flat charges so long as such charges do not result in administratively burdensome billing problems for new

entrants. Third, the costs currently recovered in the Transport Interconnection Charge ("TIC") should be allocated to the transport rate elements to which they are reasonably attributable. The remaining TIC costs should be allocated to transport rate elements in proportion to direct investment or through a phased out TIC imposed solely where competitive access providers do not provide access service. Finally, separate signaling elements should be created in a manner that tracks the Ameritech SS7 Waiver.

Given the practical difficulties (political sensitivities and time constraints) with prescriptive rate-making and the superior efficiency of market-based rates, the Commission should adopt a market-based approach to lowering rate levels. In doing so, however, the Commission must not adopt the proposal made in the Notice to grant substantial extra flexibility before any competition has developed. Such an approach would stifle competition. It is also a complete departure from FCC precedent that is unlikely to be upheld on appeal. Instead, the Commission should require as a prerequisite for Phase I pricing flexibility for a particular service (1) compliance with a slightly modified version of the Section 271 competitive checklist in a given geographic area, and (2) proof of the existence of substantial competition for the service in a particular geographic area. In implementing the market-based approach, the Commission must also be sure to monitor

closely ILEC pricing behavior to ensure that they do not abuse their pricing flexibility. The Commission should also define the relevant geographic regions so that opportunities for cross-subsidy and discrimination are limited.

As to the broader issue of ILEC recovery of "stranded" costs of the network, the incumbents should be permitted, but not guaranteed the opportunity for such recovery. There is neither a sound policy basis nor a legal requirement that ILECs be guaranteed recovery of stranded costs either from long distance carriers or from the industry as a whole. However, ILECs should be permitted to charge current rates (which were set based on historical costs) and thus recover whatever stranded costs they may have until competitive entry forces them to lower their prices.

Finally, the Commission should not regulate competitive LEC prices for either terminating access or what the Commission terms "open end" originating minutes. There is no evidence that the new entrants have abused the market power they have in these limited situations. To impose regulations without cause in these instances would raise the competitors' cost of doing business. It would also possibly establish a precedent for further needless and costly regulation at a time when new entrants are incurring the enormous costs of market entry.

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COMMENTS OF TIME WARNER COMMUNICATIONS HOLDINGS, INC.

Time Warner Communications Holdings, Inc., ("TWComm"), by its attorneys, hereby submits its comments in response to the Commission's Notice of Proposed Rulemaking in the above-captioned proceeding.¹

I. INTRODUCTION

TWComm has a critical interest in the manner in which the Commission reforms its access charge rules. As an entry strategy, TWComm will focus on providing business customers with switched local exchange and exchange access service in the eighteen markets in which it has already upgraded its

¹ See Access Charge Reform, CC Docket Nos. 96-262, 94-1, 91-213, 96-263, Notice of Proposed Rulemaking, Third Report and Order, and Notice of Inquiry, FCC 96-488 (released December 24, 1996) ("Notice").

cable plant to provide telephone service. TWComm's ability to provide a meaningful alternative to the incumbent local exchange carriers ("ILECs") in these markets will be substantially determined by the outcome of this proceeding.

For quite some time, there has been wide agreement within the industry as to the basic reforms required to make interstate access more efficient. Of course, the endeavor involves some difficult implementation issues. But most acknowledge that efficient outcomes, and therefore increased consumer benefits, are much more likely if rates are restructured so that costs can be recovered in the manner in which they are incurred and rebalanced so that cost causers pay for the costs they impose on the network.

While the most efficient policy approach may be easily determined in theory, comprehensive reform of the Commission's access charge regime has been elusive in the past and appears to face significant obstacles in the present context (such as the politically sensitive nature of rate rebalancing and the difficult time constraints effectively placed on the Commission). While full, comprehensive reform is therefore probably beyond the Commission's reach in this proceeding, TWComm urges the regulators to go as far as possible to lay the groundwork for the competitive entry that could someday make the access charge regime unnecessary.

Specifically, the Commission should implement rate structure reforms that do not impose substantial

administrative and billing costs on new entrants. The Commission should also adopt a market-based approach to access reform in which ILECs are offered the opportunity to recover historical costs where the market permits. The Commission should not, however, adopt the market-based approach proposed in the Notice under which ILECs can receive extra pricing flexibility before any competition has developed. Instead, the Commission should grant such extra flexibility only after an ILEC has demonstrated that substantial competition exists for the provision of a service in a particular geographic area.

II. THE INTERSTATE ACCESS RATE STRUCTURE SHOULD BE DESIGNED TO MAXIMIZE EFFICIENCY.²

The restructuring and rebalancing processes are inherently imperfect. Nevertheless, the reforms described below (many of which are proposed in the Notice) will substantially improve the efficiency of the current regulatory regime.

A. The Costs Of The Common Line Should Be Recovered More Efficiently.³

The costs associated with the common line should be recovered in the manner in which they are incurred. This means that, regardless of the approach ultimately adopted by the Commission, carrier common line charge ("CCLC") costs should be recovered through non usage-sensitive charges.

² This Section relates to Section III.A of the Notice.

³ This Subsection relates to Section III.B of the Notice.

**1. Common Line Costs Currently Recovered
By The CCLC Should Be Recovered On A
Non Usage-Sensitive Basis⁴**

As the Commission points out in the Notice, and as has long been recognized by economists, the costs of the local loop are not traffic-sensitive.⁵ The CCLC, however, recovers the costs of the local loop not recovered by the subscriber line charge ("SLC") on a usage-sensitive basis from long distance carriers. At the very least, therefore, the Commission must ensure in this proceeding that all of the costs attributed to the common line are recovered on a non usage-sensitive basis.

This reform could be accomplished in one of two ways. First, all of the costs reasonably attributable to an end user's common line could be recovered through the SLC (increased in phases over time if necessary). It is important to emphasize, however, that there is no need to limit the SLC increase by significantly increasing the size of the universal service fund. Such an increase in the universal service fund can be avoided only if (1) the cost of providing local service for universal service purposes is based on an appropriate forward-looking cost proxy model, as

⁴ This Subsection relates to Section III.B of the Notice.

⁵ See Notice at ¶ 57; Alfred E. Kahn, "The Road To More Intelligent Telephone Pricing," 1 Yale J. On Reg. 139 (1984) (explaining that end users impose the same "access costs" on the network, i.e., costs of connecting to the network through the local loop, regardless of how many calls they make or receive).

recommended by the Joint Board,⁶ and (2) the FCC and state commissions do not try to keep local rates below the true affordability level.⁷

Given the political sensitivity of increasing the SLC, the Commission could alternatively continue to assess CCL charges on long distance carriers. Since long distance carriers require use of the local loop to originate and terminate their services to end users, it is not unreasonable to continue to require compensation for that

⁶ Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Recommended Decision, FCC 96J-3 at ¶ 270 (released Nov. 8, 1996) ("We find that forward-looking economic costs should be used to determine the cost of providing universal service") ("Recommended Decision").

⁷ There is no reason to believe that the CCL charge (i.e., recovery from long distance carriers instead of end users) is necessary to ensure universal service. In fact, many studies indicate that local customers can afford the full cost of local service. For example, studies have estimated that anywhere between approximately 80% and 93% of rural subscribers would be able to afford the full cost of telephone service. See Carol Weinhaus, et al., Telecommunications Indus. Analysis Project, "What is the Price of Universal Service? Impact of Deaveraging Nationwide Urban/Rural Rates" at 18 (1993) (concluding that 92.7% of rural households could afford the full cost of telephone service); Organization for the Protection & Advancement of Small Tel Cos., "Keeping Rural America Connected: Costs and Rates in the Competitive Era" at ES-6 (1994) (predicting 79.6% of rural subscribers willing and able to pay the full cost of telephone service). Furthermore, despite predictions to the contrary, subscribership has not declined in the past when local rates have increased. See MTS and WATS Market Structure: Amendment of Part 69 of the Commission's Rules and Establishment of a Joint Board, CC Docket Nos. 78-72, 80-286, Recommended Decision and Order, 59 Rad. Reg. 2d 551 (1985) (concluding that the increase in rates following the divestiture did not reduce subscribership levels).

use.⁸ As discussed later, a properly designed competitive market approach will drive access prices, including the CCLC, to economically efficient levels, which, depending on the level of SLC recovery allowed by the Commission, may be at, or close to, zero. The most serious problem with the CCLC is not that it is assessed to long distance carriers, but rather the manner in which it is applied. As well-documented by the Commission, the recovery of non-traffic sensitive costs through a traffic sensitive charge is economically inefficient and causes marketplace distortions. Therefore, some form of a flat monthly charge would be significantly closer to cost-causative recovery. A monthly charge applied to each IXC presubscribed line would likely be the most efficient alternative. Indeed, the IXCs could pass through such charges to end users in the form of minimum monthly charges or a combination of flat and usage sensitive charges.⁹ This would more efficiently distribute cost recovery among all end users instead of primarily from high-volume users in much the same way as an increased SLC.

However, such an approach may create significant billing problems because frequent PIC changes could result in a line dedicated to a single end user being used to access multiple IXCs in any given month. Dial-around

⁸ Such an approach is at least more reasonable than the current traffic-sensitive CCLC.

⁹ The Joint Board expressed its approval of this approach in the Recommended Decision. See Recommended Decision at ¶ 776.

calling (particularly used by businesses to select least-cost routing) could also add difficult and costly billing complexities. TWComm suggests that the Commission require the Ordering and Billing Forum (OBF) to report on how such a change could be cost-effectively administered prior to the Commission adopting the per line structure.¹⁰

The Commission should not, under any circumstances, recover CCLC revenues through any type of bulk billing or capacity-based mechanism from all carriers. Such a mechanism will limit the incentive of long distance carriers to purchase access from CAPs, since the IXC's will have to pay ILEC costs regardless of their access provider. Further, bulk billing would reduce the ILEC's incentive to function efficiently, since it would partially shelter them from the effects of competition. Finally, since a bulk billing scheme is effectively indistinguishable from the TIC, such a recovery scheme would almost certainly violate the requirement established in the recent Comptel v. FCC decision¹¹ that all access charges be cost-based.

¹⁰ CAPs are often required by long distance carriers to adopt the access charge structure of the ILECs with whom they compete. If the Commission were to require ILECs to adopt the per-line structure for CCLC, CAPs may be required to incur significant costs of implementation.

¹¹ See Competitive Telecommunications Ass'n. v. F.C.C., 87 F.3d 522, 532 (D.C. Cir. 1996) (finding the FCC's decision to create the TIC arbitrary and capricious because it is non-cost based and remanding the issue to the Commission to either provide a reasonable explanation as to why the TIC is necessary or to replace it with cost-based charges) ("Comptel v. FCC").

**2. The SLC Cap For Multi-Line Businesses
And Non-Primary Residential Lines
Should Be Eliminated.¹²**

Even if the Commission is unable to recover all of the costs currently recovered through the CCLC in an increased SLC charge, it should at least do so (i.e., eliminate the SLC cap) for multi-line businesses and non-primary residential lines. The efficiency arguments outlined above apply with equal force to this issue. Moreover, the Commission may find it possible to accomplish this reform as a practical matter.

**3. SLC Geographic Deaveraging Should Be
Permitted Only After The Prerequisites
For Phase I Flexibility Have Been
Met.¹³**

The Commission should not permit ILECs to deaverage the SLC on a geographic basis at this time. It is true that, as a theoretical matter, it would be more efficient to recover the SLC on a geographically deaveraged basis. But there is simply too great a risk that ILECs would use this freedom to engage in anticompetitive pricing strategies.¹⁴

Geographic deaveraging would make it more likely that ILECs will drop loop prices below incremental cost without detection in areas where they face competition or the threat of competition. Given that local competition will never

¹² This Subsection relates to Section III.B of the Notice.

¹³ This Subsection relates to Section III.B of the Notice.

¹⁴ See Section III.E below for a discussion of the anticompetitive pricing strategies in which ILECs have the incentive to engage.

develop if alternative loop providers cannot enter the market, the cost of such anticompetitive behavior far outweighs any benefits deaveraging might bring.

Further, the Communications Act explicitly contemplates geographic averaging of rates charged to end users. For example, Section 254(b)(3) states that rates charged to consumers in rural, insular and high cost areas should be "reasonably comparable" to rates charged for similar services in urban areas.¹⁵ This provision would seem to establish an exception in the case of geographic averaging to the Section 254(e) rule that all subsidies should be explicit. In any case, Section 254(e) does not require that all subsidies be explicit; its language is aspirational. Where appropriate to protect competition, the Commission has the authority to require an implicit subsidy until it is no longer necessary. It should exercise this authority in the case of SLC averaging.

B. Interstate Switching Costs Should Be Recovered In The Manner Such Costs Are Incurred.¹⁶

TWComm in general supports the Commission's tentative conclusion to require the recovery of switch-related costs in the manner in which they are incurred. As the Commission observes, it would seem to be most efficient for ILECs to

¹⁵ 47 U.S.C. § 254(b)(3).

¹⁶ This Subsection relates to Section III.C of the Notice.

recover the non-usage sensitive costs of ports for dedicated transport and for lines with flat fees.¹⁷

For dedicated trunk ports, cost causation can be directly attributed to individual IXCs purchasing the dedicated trunks with which ports are associated. It therefore makes sense to impose flat rates per trunk port on the IXC terminating a dedicated trunk.

Common, or shared, trunk port costs, however, appear to be a function of total traffic rather than the trunk termination of individual carriers. As traffic levels increase, more trunks are required to maintain efficient performance standards (i.e., blocking levels) for all carriers sharing the trunk and trunk port facilities. While the addition of trunk and trunk port capacity is not linear with respect to minutes of use, it nonetheless is more a function of total traffic than of individual carrier decisions. Usage-based (per minute-of-use) charges provide a reasonable allocation of costs for the shared use, and TWComm recommends that common or shared trunk port costs continue to be recovered in this manner.

Flat rate recovery of line port charges raises the same issues of cost recovery as does the CCLC. Since several PICs may use or share the dedicated facility in a single month, the question becomes one of how to allocate a portion of the costs to each IXC. While the per-line allocation

¹⁷ See Notice at ¶¶ 72-73.

appears to best reflect the manner in which costs are incurred, this change may also impose additional billing administration costs on TWComm and other alternative access providers to the extent they too must keep track of an end user's PIC changes and account for dial around problems. As with the CCLC, TWComm recommends that until billing issues can be resolved by the OBF, the current structure should not be changed.

Further, in a revealing footnote in the Notice, the Commission raises the possibility that only three percent of the costs incurred by carriers using Lucent 5ESS switches are traffic sensitive.¹⁸ Given the potential burdens that line port charges on long distance carriers could impose on new entrants, the Commission must, at the very least, be sure that the manner in which such costs are incurred does not depend on the switch vendor used by the ILEC.

Finally, the Commission should not attempt to require ILECs to develop peak and off-peak pricing for local switches. As the Commission acknowledges, such schemes are extremely complex.¹⁹ The Commission should therefore permit

¹⁸ See Notice at ¶ 73 n.133.

¹⁹ For example, if an ILEC charges a relatively high price for usage during peak hours, usage during those times may be depressed, causing what economists refer to as "peak shifting." See Steven R. Brenner, Bridger M. Mitchell, "Economic Issues In The Choice Of Compensation Arrangements For Interconnection Between Local Exchange Carriers And Commercial Mobile Radio Service Providers," at 27, submitted as an attachment to the Comments of the Cellular Telecommunications Industry Association in CC Docket Nos. 95-185, 94-54.

carriers to charge for access based on peak usage if they can provide a reasonable basis for doing so.

C. Costs Currently Recovered In The TIC Should Be Recovered In The Rate Elements To Which They Are Fairly Attributable.²⁰

As with other aspects of the access rate structure, the Commission must require that the costs associated with transport service, especially those recovered in the transport interconnection charge ("TIC"), are paid by cost causers and recovered in the manner in which they are incurred. No other approach is either sound policy or sustainable on appeal.

As the Commission acknowledges in the Notice, the TIC is not a cost-based rate. Indeed, it was explicitly designed as a way of requiring all IXC's to pay for the costs of using tandem switched transport for interstate access, even though some IXC's (usually AT&T) only use the tandem switch for interstate access traffic overflow and some IXC's purchase their switched transport from CAPs like TWComm. The inefficiency of such a mechanism is well-known, and need not be explained at length. Suffice it to say that the TIC distorts consumption of switched transport and retards the development of competition by requiring CAP customers to pay for some of the transport-related costs of the ILEC.

Indeed, it should be no surprise that little competition has developed for tandem transport service (in

²⁰ This Subsection relates to Section III.E of the Notice.

contrast to direct trunked transport and special access, for example) since the TIC was established. Long distance carriers must pay for the ILECs' costs through the TIC when they interconnect at the ILEC end office. The IXC's therefore have little incentive to buy access from more efficient alternative providers of transport service. As a pure policy matter, the Commission cannot continue to support this scheme.

Moreover, the Commission cannot retain the TIC as a legal matter either. In Comptel v. FCC, the D.C. Court of Appeals held that the Commission must transform the TIC into a cost-based charge or provide a reasonable basis for departing from cost based pricing.²¹ Since there is no such basis, the TIC must be eliminated.

Instead, the costs currently recovered through this mechanism that can be reasonably attributed to switched access rate elements (including the tandem switch) should be reassigned to those elements.²² Although it would require fairly detailed regulatory scrutiny of ILEC costs, this approach is both consistent with the Comptel decision and efficient, since it will require purchasers of access to pay for something approximating the costs they cause the ILECs

²¹ See Comptel v. FCC, 87 F.3d at 532.

²² See Letter from Frank G. McKennedy, Director-Legal and Regulatory Affairs, United States Telephone Association to James Schlichting, Chief, Competitive Pricing Division, FCC, October 10, 1996 (describing rate elements to which costs currently recovered through the TIC are readily attributable).

to incur when they purchase switched access. Such an approach would also obviate the need (as it is characterized by NYNEX)²³ to grant the ILECs some extra amount of pricing flexibility to allow them to recover the TIC-related costs more efficiently on their own.

Moreover, ILECs should be given a limited opportunity to recover the remaining TIC-related costs that are unassignable to particular elements. TWComm recommends that ILECs be permitted to amortize such costs over a five year term. The costs should be allocated to interstate transport rate elements in proportion to the assigned direct costs of those elements. This approach is consistent with Commission's traditional approach to the allocation of overhead costs²⁴ and the Comptel court's rejection of the Commission's disproportional allocation of overhead costs to tandem switching.²⁵

If the Commission decides to retain the TIC for a period of time to recover costs not directly attributable to

²³ See Notice at ¶ 114.

²⁴ The Commission has endorsed previously an allocation of costs not identified with any particular element or service in proportion to the assignment of direct costs. See Transport Rate Structure and Pricing, CC Docket No. 91-213, Report and Order and Further Notice of Proposed Rulemaking, 7 FCC Rcd 7006, 7030, n.91 (1992) (noting the Commission's indication, on several occasions, of its "preference for setting initial rates with uniform overhead loadings in proportion to direct costs"). Again, the point is to provide the ILECs with an opportunity, not a guarantee, of recovering unidentified costs from the transport rate elements.

²⁵ See Comptel v. FCC, 87 F.3d at 533.

transport rate elements, such a charge should not be imposed where a CAP provides transport service. In no case should CAPs be required to pay for the costs of their competitors in the access market.

Nor should the Commission attempt to transfer costs currently recovered through the TIC to universal service. First, there is no evidence in the record of any proceeding before this Commission that demonstrates that the costs recovered in the TIC are in any way associated with or necessary for universal service. Moreover, as the Joint Board recommended in the Recommended Decision, universal service reimbursement should be based on a forward-looking cost model, not the historical costs of the ILECs.²⁶ If costs currently recovered through the TIC are also determined to be forward-looking costs by the cost proxy model adopted for universal service, then of course they would be included in the reimbursement calculation.

Finally, for transport rates to reflect the manner in which long distance carriers impose costs on the network, the FCC must account for overflow traffic. Specifically, large long distance carriers that predominantly use dedicated trunks should nonetheless be required to pay for extra trunking, port or switching capacity that they require ILECs to obtain in order to accommodate traffic overflow.²⁷

²⁶ Recommended Decision at ¶ 270.

²⁷ As discussed above, the current recovery mechanism through the TIC at the end office level only serves to stifle competition. To the extent new elements are

D. The SS7 Signaling Rate Structure Adopted In the Ameritech Waiver Should Apply To All ILECs.²⁸

In the Ameritech SS7 Waiver Order,²⁹ the Commission granted Ameritech's request for permission to charge separate access charge rate elements for SS7 signaling. Specifically, Ameritech was permitted to establish separate charges for (1) signaling links, (2) signaling transfer point termination, (3) signal switching, (4) signal transport, (5) signal formulation, (6) signal tandem switching, and (7) optional charges associated with the ISDN user part ("ISUP").³⁰

In general, TWComm supports the adoption of separate SS7 rate elements such as these for all ILECs. The creation of such elements would increase the likelihood of efficient usage since SS7 costs are apparently currently recovered through the TIC and the switching element charge.³¹ Separate SS7 charges would also make efficient entry more likely by unbundling elements that can be obtained from alternative providers. In adopting separate rate elements

established for overflow traffic to the tandem switch, such elements must shift cost recovery to the transport category where the costs are incurred.

²⁸ This Subsection relates to Section III.F of the Notice.

²⁹ See Ameritech Operating Companies Petition for Waiver of Part 69 of the Commission's Rules to Establish Unbundled Rate Elements for SS7 Signaling, Order, 11 FCC Rcd 3839 (1996) ("Ameritech SS7 Waiver").

³⁰ See id. at ¶ 14.

³¹ See id. at ¶ 11.

for SS7, however, the Commission should try not to establish rules that are unnecessarily detailed. For example, separate charges for ISUP and the Transaction Capabilities Application Part³² would seem to be unnecessary.

III. THE COMMISSION SHOULD ADOPT A SIGNIFICANTLY MODIFIED VERSION OF ITS MARKET-BASED APPROACH TO REVISING ACCESS CHARGE RATE LEVELS³³

In the NPRM, the Commission discusses market-based and prescriptive approaches which it proposes to use either individually or in some combination to move ILEC rates for interstate switched access closer to some reasonable measure of cost. The optimal approach to achieving this goal is a market-based approach, with the modifications described below.

The market-based approach as proposed by the Commission in the Notice would surely retard the development of competition. It would provide unprecedented opportunities for ILECs to abuse their market power on the mere showing of potential competition. To be sure, some level of competition would develop. But robust competition that brings alternative choices and lower prices to a broad range of consumers would be effectively curtailed. The Commission has long held out the promise of expanded interconnection as the cornerstone of its competitive access policies. Yet, almost five years after the Commission's first collocation

³² See Notice at ¶ 135.

³³ This Section relates to Section V of the Notice.

order,³⁴ potential access competitors still lack permanent rates at reasonable levels or reasonable terms and conditions for expanded interconnection tariffs. The Commission still has not resolved issues designated for investigation for virtual collocation tariffs filed in September 1994. Despite an ILEC track record of obstructing the establishment of just and reasonable tariffs, and of making collocation as difficult and as expensive as possible for CAPs, the Commission would declare victory for competition and cut ILECs loose from regulation. As discussed below, the Commission must make major modifications to its market-based approach if the promise of a competitive access market is to have any chance of being fulfilled. First, the Commission must correct the serious deficiencies still outstanding in its expanded interconnection investigation. Second, the Commission must adopt quantitative market measurements, similar to those established for AT&T, as conditions for any increased flexibility for ILECs. Third, the Commission needs to establish a more gradual loosening of regulation than that proposed in the Notice upon the mere potential for competition.

³⁴ See Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91-141, Report and Order and Notice of Proposed Rulemaking, 7 FCC Rcd 7369 (1992).